

Capital Gains Tax EIS Deferral Relief

Tax relief for re-investment of gains in qualifying schemes was introduced to stimulate investment in small businesses, and was incorporated into the Enterprise Investment Scheme (EIS) as EIS deferral relief.

Deferral relief allows a UK resident investor to defer capital gains tax (CGT) on a chargeable gain arising from the disposal of any asset, or a gain previously deferred, by investing in new shares of a qualifying unquoted trading company.

The relevant definitions are set out in the EIS legislation. Most trades qualify, but there are a number of exceptions including banking, insurance and other financial activities, and those considered to be 'asset backed' (such as farming, forestry, property development, hotels and nursing homes).

Shares on the Unlisted Securities Market (USM) are regarded as quoted for this purpose, but those on the Alternative Investment Market (AIM) are not.

The investor must subscribe for qualifying shares within twelve months before or within three years after the gain accrued.

There is no limit on the amount of gain which may be deferred.

A claim for relief must be made not later than the fifth anniversary of 31 January following the tax year in which the shares were issued. For example, for shares issued in the tax year ended 5 April 2012, a claim must be made by 31 January 2018.

The deferred gain will 'revive' (become chargeable) when the shares are disposed of (other than by inter-spouse transfer), if the investor or spouse emigrates or the company ceases to qualify. Capital gains tax will apply at the rate at the time the deferral ends and the gain becomes liable to tax.

EIS deferral relief is also available to trustees.

Please consult us for advice on the other special rules which apply to this relief.